

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Gunther Construction Co.
DOCKET NO.: 05-00275.001-F-1
PARCEL NO.: 09-32-400-007

The parties of record before the Property Tax Appeal Board are Gunther Construction Co., the appellant, by its representative, and the Knox County Board of Review.

The subject property consists of approximately 5.697 acres of vacant land. Appellant purchased the land in April 2004 for \$108,000. The property is located in Galesburg Township, Illinois.

The appellant's farmland petition indicated unequal treatment in the assessment process as the basis of the appeal, but appellant's representative acknowledged that appellant was not seeking a farmland assessment as the subject property did not qualify for a farmland assessment in 2005. In support of the inequity argument as to the current assessment of the subject property, the appellant presented a photograph of the land and a grid analysis with assessment data on three vacant one-half acre parcels. The suggested comparable lots were located approximately two miles from the subject property in the Lake Bracken subdivision which was under development, but did not yet have sewer and water connections or curbs and gutters. Each of those one-half acre comparables had a land assessment of \$180 whereas the subject property had an assessment of \$36,010 or about \$3,000 per one-half acre.

In further support of the petition, testimony was presented by appellant's vice president Robert T. Fulton. He testified that appellant purchased the subject property, which had been farm ground, in order to fulfill appellant's contractual obligations to construct the Route 41 bridge over a nearby railroad track. In summary, appellant purchased the subject property to obtain structural fill (borrow dirt) in order to construct the approaches to the bridge. In order to obtain the dirt, appellant

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the **Knox** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	36,010
IMPR.:	\$	0
TOTAL:	\$	36,010

Subject only to the State multiplier as applicable.

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dug an approximate five acre borrow pit on the subject property, which was between 40 and 60 feet deep, leaving approximately one to one and one-half acres of land surrounding this newly created borrow pit. Fulton also testified, and a photograph had been submitted which depicts, that the borrow pit is now filled with water. Lastly in testimony, it was noted as an aside that the subject property has been sold back to the previous owner in 2006, but Fulton did not recall the sales price in 2006.

In summary, appellant contends that the 2004 purchase price is not a current reflection of market value after the land was essentially destroyed through removal of the borrow dirt for the bridge construction project. Fulton also testified that he calculated a suggested assessment based on the assessment of nearby undeveloped subdivision lots and assumed three lots would fit on the land surrounding the borrow pit. On the basis of this testimony and the comparisons presented, the appellant felt that an assessment of \$540 was appropriate for the subject property.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$36,010 for the subject property was disclosed. In support of the current assessment, the board of review presented a letter from the clerk of the board of review, a copy of the transfer declaration regarding the purchase of the subject property in 2004, and testimony from the chairman of the board of review.

In testimony, Mike Gehring indicated that the 2005 assessment was based on the 2004 purchase price of \$108,000 for the subject property. He also acknowledged in testimony that there was a progressive removal of dirt from the land creating the borrow pit over an extended period of time although he contended that the board of review had no data to indicate the rate of removal of the dirt. It was also not made clear in his testimony whether knowing the rate of removal of the dirt would have any bearing on the assessment at issue. Gehring also noted that the property was sold back to the previous owner as of January 3, 2006. Gehring further testified that vacant land available for industrial development in the area of the subject property is currently bringing between \$13,000 and \$20,000 per acre. Finally, Gehring testified that the remaining land around the borrow pit is not eligible for farmland treatment and should not be farmed in order to control erosion into the borrow pit.

As to the appellant's suggested comparables, the board of review noted the properties in the subdivision have not been sold or developed and have been assessed at a value prior to sub-platting in accordance with Section 10-30 of the Property Tax Code (35 ILCS 200/10-30). The board of review contends the instant property of approximately six acres neither qualifies for nor should be treated the same as the appellant's suggested

comparables. Based on the purchase of the subject property by the appellant in April 2004 for \$108,000, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and considering the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that based on the evidence submitted a reduction in the subject property's assessment is not warranted.

The appellant contends unequal treatment in the assessment process as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Having considered the evidence presented, the Board concludes that the appellant has failed to meet this burden and thus finds a reduction is not warranted on this basis.

With regard to the subject's land assessment, the Board finds the appellant presented assessment data for three suggested land comparables, however, the undisputed evidence established that the comparable properties were subject to a developer's preferential assessment (35 ILCS 200/10-30). The Property Tax Appeal Board finds the appellant's comparable properties are not suitable comparables to the subject property. The subject property has not been platted and subdivided in accordance with the Plat Act and the subject property is not in excess of ten acres as necessary for a preferential assessment under Section 10-30 of the Property Tax Code (35 ILCS 200/10-30(a)(1) and (3)).

Turning now to the appellant's argument regarding the perceived lack of value in the subject property since the removal of the dirt and simultaneous creation of the borrow pit. In summary, appellant contends that common sense suggests the subject property is less valuable than at the time it was purchased in April 2004. The record is clear, however, that the appellant failed to present any substantive evidence indicating the subject's assessment was inequitable or incorrect on this basis and therefore the Property Tax Appeal Board has given these arguments little merit.

As implied above, the Board finds the context of these arguments of diminution in value raised by the appellant fall within the realm of a market value complaint. When market value is the basis of the appeal, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board,

313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002); *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code Sec. 1910.63(e). The Board finds the appellant has not overcome this burden.

The record contains no market evidence to support the appellant's claim regarding the purported loss in value, if such loss exists, due to the removal of the dirt and creation of the borrow pit. Besides a theory that the borrow pit should be valued at a lesser rate of value than flat ground, the Board finds appellant submitted no substantive evidence to support this assertion, nor any evidence that clearly shows the borrow pit has decreased the subject's market value, nor provided any information to support what that lower value should be based on this argument.

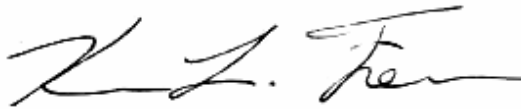
A mere theory and claim of reduced value by the appellant without more is insufficient evidence of an impact on market value. The Board finds appellant failed to present any substantive evidence indicating the subject's market value was impacted by the removal of the dirt and creation of the borrow pit. The Property Tax Appeal Board recognizes the appellant's premise that the subject's value may be affected due to the aforementioned factors, however, without credible market evidence showing the subject's land or total assessment was inequitable or not reflective of fair market value due to these factors, the appellant has failed to show the subject's property assessment was incorrect. In conclusion, the Board finds the appellant failed to submit credible market evidence that would indicate the subject's land assessment is not reflective of its fair market value despite the arguments regarding "destruction" of the land through creation of the five acre borrow pit.

In summary, the Board finds the appellant failed to demonstrate that the subject property was inequitably assessed by clear and convincing evidence or overvalued by a preponderance of the evidence. Therefore, the Board finds no reduction of the subject's assessment is warranted on this record.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: January 25, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.